

D. M. C. asks the Utah Labor Commission to review Administrative Law Judge Marlowe's decision denying Ms. C.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

### **BACKGROUND AND ISSUE PRESENTED**

As noted in Judge Marlowe's decision, Ms. C.'s claim for workers' compensation benefits "has had a long history." In summary, Ms. C. was injured while working for Draper Manor on April 24, 2000. Draper Manor and its insurance carrier, Workers Compensation Fund (referred to jointly as "Draper" hereafter), initially accepted liability under the workers' compensation system for Ms. C.'s injuries and paid some medical and disability benefits.

Several years later, in 2003, 2004, and 2005, Ms. C. filed applications with the Commission to compel Draper to pay additional benefits. The 2003 and 2004 applications were addressed in previous proceedings. Judge Marlowe's decision of March 27, 2006, dealt with Ms. C.'s 2005 application. In summary, Judge Marlowe concluded that Ms. C. had failed to comply with instructions for submitting information to support her claim and also failed to appear at the evidentiary hearing. Judge Marlowe therefore dismissed Ms. C.'s claim with prejudice.<sup>1</sup>

In requesting review of Judge Marlowe's decision, Ms. C. contends she failed to attend the hearing because she did not receive notice. Ms. C. also lodges complaints regarding the difficulty she has had in receiving workers' compensation benefits.

### **DISCUSSION**

The record in this matter establishes Ms. C.'s pattern of failing to take the steps necessary to resolve her workers' compensation claim. Judge Marlowe has attempted to accommodate and assist Ms. C., but Ms. C. has still failed to provide medical documentation or to attend the hearing on her claim. While Ms. C. contends she did not receive notice of the hearing, the record establishes that the notice was sent, and resent, to the most current addresses available.

The Commission understands the difficulties that unrepresented litigants face in prosecuting their workers' compensation claims. Had Ms. C. shown some reasonable effort to pursue her claim, her defaults might be excused. But ultimately, it remains her responsibility to produce evidence and to appear for hearing. Because Ms. C. has failed to demonstrate good cause for her inaction, the Commission concludes that Judge Marlowe properly dismissed Ms. C.'s claim.

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<sup>1</sup> The Commission notes that Judge Marlowe's decision did order payment of one medical bill, from Dr. Dall.

**ORDER**

The Commission affirms Judge Marlowe's decision and denies Ms. C.'s motion for review.  
It is so ordered.

Dated this 7<sup>th</sup> day of June, 2006.

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R. Lee Ellertson  
Utah Labor Commissioner